



Karen Human Rights Group

Documenting the voices of villagers in rural Burma

Report from the Field

April 1, 2010 / KHRG #2010-F3

Functionally Refoulement: Camps in Tha Song Yang District abandoned as refugees bow to pressure

Two temporary refugee camps established during June 2009 in Tha Song Yang District, Tak Province, Thailand, to provide refuge for villagers that fled increased conflict and exploitative abuse in Pa'an District have now been all but entirely abandoned. The camps were home to more than 2,409 refugees as recently as January 2010; over the last two months, the camp populations have dwindled as small groups have departed one by one. On March 31st and April 1st, the last residents of the Nong Bua and Mae U Su sites left in two large groups, of 24 and 102 families respectively. This report details the circumstances of the refugees' departure, including interviews that indicate refugees left because of a persistent campaign of harassment by soldiers of the Royal Thai Army (RTA), who pressured the refugees to return to Burma in spite of warnings that safe return is not currently possible. The report also details the dangers returned refugees may face, including risks from landmines as well as violent and exploitative abuse by the DKBA and SPDC Army. This section also includes details regarding the death and injury of two young boys that accidentally detonated an unexploded M79 round they found outside the village of Mae La Ah Kee on March 31st 2010. Highlighting the risks returned refugees may face, the boys came from a family that had been forced out of the Mae U Su site by RTA soldiers at the end of the rainy season 2009.

**The original version of this report was modified on April 6th 2010 to include six new photographs as well as new information regarding the death and injury of two children from Mae La Ah Kee village.*

On March 31st 2010, more than 700 refugees departed from two camps established for villagers that had fled to Thailand to avoid fighting and exploitative abuse in Pa'an District, Karen State during June 2009.¹ The camps, which were home to more than 2,409 refugees just two months ago, are now empty; refugees have been departing in groups since the end of January, citing harassment and pressure by the Royal Thai Army (RTA). On the same day, a seven-year-old child from a family that was



This photo, taken on March 31st 2010, shows Saw Pe---, age 10, just after accidentally detonating an unexploded M79 round while playing outside his village. His brother, age 7, was killed on the spot. RTA soldiers had forced the boys' family to leave the Mae U Su site at the end of the 2009 rainy season.

¹ For a full summary of the context surrounding the flight of these refugees, see "Abuse in Pa'an District, Insecurity in Thailand: The dilemma for new refugees in Tha Song Yang," KHRG, August 2009.

forced to depart the Mae U Su camp at the end of the 2009 rainy season was killed and his ten-year-old² brother severely injured by an unexploded M79 round found outside their village.

In spite of repeated public and private warnings that refugees could not safely be returned to their home villages, RTA soldiers have continued to harass refugees and pressure them to leave the camps. While many of the families departing since February 2010 were interviewed by UNHCR, which has reportedly recorded departures as voluntary,³ many refugees made the decision to return only because of this pressure. Regardless of the context surrounding departures, the area of return remains dangerous and returned refugees are intensely vulnerable. The following report includes detailed information about the circumstances of the refugees' departure as well as updated information about the human rights situation in the area of return.

Circumstances surrounding refugee return

Refugees began arriving in Tha Song Yang District in June 2009, fleeing exploitative abuse and conflict after attacks by a joint force of State Peace and Development Council (SPDC) Army and Democratic Karen Buddhist Army (DKBA) troops on three Karen National Liberation Army (KNLA) camps near the Ler Per Her camp for internally displaced persons (IDPs) in Dta Greh Township, Pa'an District. Since then, refugees in Tha Song Yang District, Tak Province, Thailand, have primarily been residing in three locations: Nong Bua, Mae U Su and Mae Salit. Nong Bua and Mae U Su are the Thai names for sites referred to in Karen as Noe Boh and Oo Thu Hta.⁴ Refugees have been leaving the sites in small groups since the end of January 2010, and on March 31st and April 1st 2010 the last remaining families decided to leave as a large group: approximately 600 people from 102 families from Mae U Su, and 24 families from Nong Bua. In January, the two sites were home to 2,409 people; today, they are empty. Many of the refugees that left these camps have returned to Burma, though they have told KHRG and other organisations on numerous occasions in the past few months that they did not want to return and believe their villages are unsafe. Other refugees have gone into hiding elsewhere in Thailand, including moving to the Mae Salit site and the surrounding area.

These departures mark the final stage in what has been a slow process that began at the end of January 2010, when the RTA began making statements indicating that it believed that the area of return was safe and that refugees were ready to "*voluntarily*" return. On February 3rd the RTA announced that 30 families had volunteered to return and would be repatriated on February 5th. Interviews by KHRG and other organisations, however, indicated that these families did not wish to return; rather, they had simply been selected by the RTA in what at the time appeared to be the beginning of a large forced repatriation process. This prompted a significant international outcry, which culminated in observers from foreign embassies, humanitarian aid groups and UNHCR visiting the sites on February 5th to witness the repatriation.⁵

² Rural villagers often do not keep formal calendars and do not possess identification papers or birth certificates, making the identification of exact dates difficult. Determining their exact age of these boys has proven difficult. Their grandfather and older brother could not agree on their ages, though they arrived at the ages seven and ten. Mae La Ah Kee Villagers, meanwhile, estimated the boy's ages to be five and seven.

³ "What they are telling us is they wanted to go back because they wanted to prepare their field for planting before the rains," Kitty McKinsey, regional spokeswoman for UNHCR, was quoted in *the Irrawaddy* as saying on March 31st 2010. "From the point of view of the UNHCR, they shouldn't be forced to return. All return to Myanmar should be on a purely voluntary basis [sic]." See, "600 Karen Refugees Return to Burma," *The Irrawaddy*, March 2010.

⁴ In previous reports concerning the situation of the refugees in Tha Song Yang District, KHRG has used the Karen names for the new arrival sites, Noe Boh corresponding to the Thai name Nong Bua and Oo Thu Hta corresponding to the Thai name Mae U Su. This has caused considerable confusion for some foreign readers. To minimise confusion, this report will primarily use the Thai names.

⁵ For details on these events, see "Refoulement Deferred: Still no durable solution for hosting refugees in Tha Song Yang District," KHRG, February 2010.



These photos, taken during the last week of March 2010, show dismantled and abandoned huts at the Nong Bua camp. Though the camp was home to 1,111 people as recently as January 2010, on March 29th it was home to just 24 households. On March 31st they all departed, citing harassment by RTA soldiers. The camp is now empty, as is the Mae U Su camp. Because they have been abandoned, humanitarian aid organisations plan to fully dismantle the sites by April 7th 2010.

In response to this outcry, just three families were repatriated on February 5th. Though the RTA repeatedly assured media and Thailand's civilian government that this repatriation was voluntary, the families secretly returned to Thailand within a few days. On February 17th, two women from the repatriated families told the Karen Women's Organisation (KWO) that they had not wanted to return to Burma and were pressured – even tricked – into doing so by RTA soldiers:

One of the Thai soldiers told us we just had to go to the riverbank. I replied, "Just only to the river bank, we do not have to go anywhere [further]"... When we got there, they asked us to sit down and they took photos of us. After that, they asked us to get into a boat. I replied that I would not get into the boat... The owner of the boat, who could speak Karen, told us: "You just have to ride the boat to the other side of the river bank, because they have to take your photos when you're riding the boat. Then, you can come back." I told him if that were true, we'd get into the boat. When we reached the other side of the river bank, they sent us to DKBA soldiers. They [DKBA and Thai soldiers] talked on the phone to each other... They forced us to go further and further... Then, people told me to meet with the DKBA commander... He asked me, "Why do you return?"... I said, "Thai soldiers forced us to return."

Naw --- (female), Tha Song Yang District (February 17th 2010)⁶

[Thai soldiers] told us that the time limit to stay here was already finished and we couldn't continue to stay... On the 5th [of February] we... got on the truck and went back... Then they forced us to go back and we took our things and kids and we walked down the path. Then he followed us and took pictures 'til we reached the river bank. When we reached the river bank, he asked us to get on the boat... But we told him we didn't dare to go back. Then he told us, "When you reach there, you can come back." When the boat started moving, he asked us to wave goodbye... I told them, "I didn't want to go back and I didn't dare to go back, but you forced us and we had to go back."

Naw --- (female, 51), Tha Song Yang District (February 17th 2010)⁷

Importantly, the three families that were refouled on February 5th appeared to have been part of a larger repatriation exercise planned for that morning. Foreign observers, who arrived at the site early in the morning to witness the planned repatriation, were detained at a checkpoint outside the camp. Just as the first of these observers exited the checkpoint and arrived at the

⁶ Full transcripts of these interviews, translated by KHRG, are included at the beginning of Appendix 1.

⁷ Full transcripts of these interviews, translated by KHRG, are included at the end of Appendix 1.

camp, a truck containing the three families that were eventually repatriated departed the camp, without any of the families being interviewed. No observers were allowed to follow and witness the return. A fourth family that could not fit in the truck, meanwhile, was quickly ordered away from the front gate by Thai soldiers. Humanitarian aid workers were later able to interview this family, which confirmed that they did not wish to return. They had been selected for repatriation, the family said, but were told by an RTA soldier that their return would be delayed because observers had arrived. The families that were forcibly repatriated later also described circumstances that indicated the RTA had intended to repatriate a much larger group of refugees:

There were 30 families [selected] to go back. They [refugees] said, what about the others? If there weren't 30 families, there'd have been 28 families. They [RTA soldiers] said, "We can't carry everyone now. We will do three families first"... They [refugees] were told that first three families would go back and more people would come later. It would work like that. One car can carry three families, and so three families got in the car first. After the three families left, the UN arrived and the others didn't need to go back.

Naw --- (female, 51), Tha Song Yang District (February 17th 2010)

At the end of the day on February 5th 2010, the presence of foreign observers as well as international outcry about refoulement appeared to have put an end to potential RTA plans to repatriate the refugees en masse. In spite of promises that no refugees would be forced to return, as well as repeated attempts to negotiate with the RTA, including fact-finding visits from Thailand's National Human Rights Commission and the ASEAN Inter-Parliamentary Myanmar Caucus (AIPMC), the RTA maintained a persistent campaign of harassment, pressuring the refugees to leave Thailand. Almost exactly two months later, by April 1st 2010 this campaign appears to have been a success: both sites have been all but abandoned. Full details of the steady decline in camp populations as families left in small groups are presented in the following table:

Location	November 2009	January 2010	February 2010	March 17 th 2010, according to joint verification by aid groups and RTA	Morning of March 31 st 2010	Morning of April 1 st 2010
Nong Bua	1,111 people	912 people	640 people	302 people, with 25 not present but reported by villagers	24 households, approximately 80 people	0
Mae U Su	1,573 people	1,497 people	1,022 people	644 people, with 140 not present but reported by villagers	102 households, approximately 600 people	Less than 20 households; all plan to leave by end of April 1 st
Mae Salit	346 people	610 people	624 people	Not conducted	Not available	694 with 380 people hiding in surrounding area

According to refugees that spoke with KHRG immediately prior to leaving, as well as humanitarian aid workers at the sites, refugees are not leaving because they believe it is safe to return; harassment by RTA soldiers has been a significant factor contributing to their decisions to leave:

Yesterday [March 31st 2010] many people left the [Mae U Su] camp and went back to their villages in Karen State. Today [April 1st 2010], just a few people are still left in the

camp, but all of these people will go back today. The people who went back yesterday, they didn't want to go back but the Thai soldiers always threaten them... The soldiers know that some of the villagers come back and forth from their villages [in Burma], so they told villagers who do not yet dare to go back, "There is no fighting now, so you have to go back." They [Thai soldiers] asked us, "Some people went back to their villages, why do you dare not to go back?" They said that we are lazy, that we don't want to work with our own hands and get food for ourselves because we are only waiting to get food from outside [NGOs]. They have been restricting us and threatening us for more than one month, so the villagers don't feel comfortable to stay here anymore. [That is why] more villagers decided to go back to their villages.

Saw N--- (Male, 35), Mae La Ah Hta village, (Mae U Su temporary camp, April 1st 2010)

Numerous families told us that they are scared to leave, that their villages are not safe. But they told us they feel they have no other option, that they cannot stay in Thailand so they must go back to Burma. Everyone I spoke with told me this, and it was the same for my colleague at Mae U Su.

Humanitarian aid worker (Nong Bua temporary camp, March 31th 2010)

People are feeling hurt, angry, betrayed, frustrated; they do not wish to stay any more as the host country does not want them there. They already asked [the] authorities and [the RTA] to send adult men back but allow women and children to stay at site until they are able to prepare villages and rice fields. This was never agreed to. Therefore, they'll simply go. Some plan to go back straight to their villages, but some are scared so they may stay hiding in rice fields and the jungle and then decide what to do [return to Thailand secretly or go to villages]. All said they were scared to go and they know that it is not safe to do so, but they have no other choice. Some said that, as they have already told to UN they will go, and the host country does not want them there, they have no other option but to go. Some said that "they've had enough of it," of constant pressures, threats, reminders that they are unwelcome, limitations of movement... and they no longer want to stay there.

Humanitarian aid worker (Mae U Su temporary camp, March 31st 2010)



This photo, taken on February 12th 2010, shows families from the Mae U Su refugee camp as the RTA prepared to return them to Burma by sending them across the Moei River. Four RTA soldiers are visible standing in a group in the upper left.



This photo, also taken on February 12th 2010, shows some of the families as they began walking back into Pa'an District after crossing the Moei River. Paths like the one they are shown walking on serve as the primary travel routes in the area. They are also home to unmarked landmines that pose a considerable risk to returned refugees.

The conclusion that refugees left primarily because of harassment and pressure is consistent with the findings of at least five independent groups that conducted interviews between January 31st and February 17th, as well as reports by local and international media. More than 35

interviews conducted by five different groups between January 31st and February 17th indicate that refugees wanted to return, but did not believe it to be safe. Details on some of these interviews are summarised below as well as included in Appendixes 1-4, though some details on some actors evaluating conditions in the camps have been excluded for security reasons:

- A. **KWO, January 31st and February 17th 2010.** KWO interviewed 13 refugees, who all said they were afraid to return to Burma. Four of these interviews are translated as Appendix 1, including interviews with two women from the group that were forced to return on February 5th 2010. Video footage of all 13 interviews is on file with KHRG.
- B. **KHRG, January-February 2010.** KHRG monitored the situation and spoke with refugees on a daily basis, with special focus on the treatment of refugees by the RTA beginning at end of January. Refugees consistently reported to KHRG that they did not wish to return. In addition to this monitoring, KHRG conducted 12 formal interviews, four on each of February 2nd, 5th and 13th. All interviewees indicated that they do not wish to return. Ten interviews are translated and included as Appendix 2.
- C. **Karen Community Based Organisation Emergency Relief Committee (KCBOERC), Jan 31st – Feb 5th 2010.** KCBOERC conducted two interviews on Feb 5th and nine on January 31st. All interviewees indicated that refugees did not wish to return to Burma. All interviews are translated and included as Appendix 3.
- D. **ASEAN Inter-Parliamentary Myanmar Caucus (AIPMC), February 3rd – 4th 2010.** AIPMC conducted seven interviews. Based upon these interviews, AIPMC concluded that refugees “are willing to return home when the situation is safe and conducive in their homeland,” but right now would prefer to “move to other locations in Thailand or elsewhere, but not to Burma.” A censored version of AIPMC’s full report is included as Appendix 4.

It is not reasonable to assume that refugees’ concerns regarding safe return were addressed between January 31st and April 1st and that refugees subsequently decided that they wanted to return. The most credible conclusion, rather, is that frustration with sustained harassment and pressure by RTA soldiers, as well as fear fostered by RTA threats, took its toll; group by group, refugees departed because RTA harassment and pressure built up to become unbearable. The interviews included in Appendixes 1-4 all indicate that harassment and pressure by RTA soldiers have been significant. AIPMC’s fact-finding mission, for instance, concluded that: “Refugees are being consciously coerced or forced... to return to a dangerous conflict zone. Those ‘voluntarily’ returning to Burma are doing so under duress and without much choice. Some refugees are [so] afraid and frustrated... that they [have] run away.”

The statements of refugees interviewed by KHRG and the KCBOERC, meanwhile, demonstrate the severity of the harassment, which has included threats, verbal abuse and extraordinary insensitivity to refugees’ fears:

The children haven’t finished the school yet. If they go back, there might be the landmine victims among them. We really worry about that. Recently, the landmines and the punjsticks⁸ were not removed from the land yet... I asked the Thai soldiers that because there are many children, if the children were injured by the landmines and died, what can we do? They answered, “If the children die, you can make more children.”

Saw --- (male), (Tha Song Yang new arrival site, January 31st 2010)⁹

Thai military soldiers told us that, “If you go back and stay in your own village, the DKBA and SPDC will not do anything to you. If you do not go back, we will ask big trucks to come pick you up and throw you all into the sea.” The Thai authorities who often come

⁸ Punjsticks are sharpened bamboo stakes that have been placed in the ground as traps.

⁹ A full transcript of this interview is included in Appendix 3.

are soldiers in black uniforms at [Nong Bua] and some times this has included the Thai border patrol police. They come three times a day.

Naw K--- (female, 37), K--- village, Lu Pleh Township (Tha Song Yang new arrival site, February 2nd 2010)¹⁰

Given pressure of the sort described in these interviews, it is not surprising that refugees gave up and decided to abandon the camps. Refugees interviewed over the last two months, for instance, warned that if the situation did not improve they would feel no other choice but to leave:

As for me I made up my mind to be strong and ignore... this pressure. But for our... people, they can't stand this daily pressure and it might lead some into stress. Some families are secretly moving out at night... There are many problems if we go back to our village. How can we go back among the landmines?

Saw --- (male), (Tha Song Yang new arrival site, January 31st 2010)¹¹

Now I feel that the Thai will make restrictions on us until we cannot live here... The Thai authorities are always watching us. People who go around in the camp, they always watch the situation. They check people's activity. If the villagers gather together to sit and chat, if the Thai soldiers see they come and ask what we are talking about... [and] they make a note. That is why we dare not even gather and talk.

Naw C--- (Female, 38), M--- village, Dta Greh Township (Tha Song Yang New Arrival Site, February 13th 2010)¹²

Now Thai soldiers have ordered me to return to my village. They've come to stay around our refugee camp. They treat us roughly and don't allow us to go out from the camp. I'm not happy to stay here because of their actions. If I have to return to my village, I won't have any food to eat and also won't have any security. And then it's not easy to find food in areas with landmines. And now, landmines have been laid in enemy areas including our village. I don't know who planted the landmines. Therefore, I dare not return to my village.

Maung T--- (Male, 40), M--- village, Dta Greh Township (Tha Song Yang new arrival site, February 5th 2010)¹³

The only group positioned to interview large numbers of refugee departing the sites has been UNHCR. UNHCR interviews have reportedly indicated that departing refugees are doing so voluntarily because they would like to prepare fields for planting when the rainy season begins in June. That refugees would like to plant their crops is not, however, the same thing as refugees saying they believe their homes are safe or that they were ready to permanently return home; it is vital to understand the context in which refugees made the decision to leave the sites: refugees left under duress, after months of pressure and harassment by RTA soldiers and after repeatedly being given conflicting information about whether they could stay in Thailand and whether they would receive humanitarian support.

Some refugees did need to return now if they hoped to prepare their fields for planting when the rainy season begins in June. Planting in June, meanwhile, is vital if villagers are to be able to harvest paddy in October and produce rice to survive on for the following year. Recognising that some refugees would need to be able to return to plant crops as well as assess the security situation, humanitarian aid groups had attempted to obtain assurances from the RTA that able workers would be able to return to their farms to prepare crops while children, elderly and other

¹⁰ A full transcript of this interview is included in Appendix 2.

¹¹ A full transcript of this interview is included in Appendix 3.

¹² A full transcript of this interview is included in Appendix 2.

¹³ A full transcript of this interview is included as Appendix 2.

vulnerable populations remained in Thailand. That entire families decided to leave, however, speaks to the pressures the refugees felt to abandon the sites in Thailand.

I don't want to go back now but the Thai soldiers don't allow me to stay here... How can I dare to go back to my village? Landmines often explode [there]. Sometimes, the villagers are injured by landmines... I don't want to go back to the village I abandoned. However, during the rainy season if I have to live in a refugee camp [because it is unsafe to live in Karen State] I will cultivate the fields in my village. If we can raise some crops, it will be good to go back and live in my village, in the summer [February-May 2011]. But if I go back now, I won't have any food to eat.

Naw T--- (female, 50), W--- village, --- Township (Tha Song Yang new arrival site, February 5th 2010)¹⁴

Circumstances in the area of return

At least 2,409 people have left the temporary refugee camps in Tha Song Yang District since January 2010. This does not mean that the area of return in Pa'an District is safe, and villagers will continue to face substantial risk from landmines, exploitative abuse and reprisals as alleged KNLA supporters. These risks have been explained to the RTA on several occasions by KHRG and other actors, including foreign governments, humanitarian aid agencies, INGOs and local CBOs and will be reiterated here with additional examples in order to illustrate that conditions in the area of return remain highly insecure for returning refugees.

Landmines, improvised explosive devices (IEDs) and other unexploded ordinance (UXO) constitute a serious risk to all individuals, and children in particular, in the area of return. Returning refugees are particularly threatened by mines and UXO because they will not know the location of new mines planted in the months since they left; there is also the very real possibility that some returnees will be forced by DKBA soldiers to stay in new villages, as opposed to their old homes where they might be aware of the locations of mines or of areas that might contain mines.



This photo, taken in early 2010, shows landmines placed by DKBA Brigade #999 near Mae La Ah Hta village, Dta Greh Township. Mines around Mae La Ah Hta have injured two villagers that returned from the sites in Thailand since fleeing during June 2009.



This photo, taken in early 2010, shows IEDs used by the KNLA in the area of return. These IEDs can be detonated deliberately or hidden and placed as traps.

Prior to the attacks in June, KNLA 7th Brigade had used mines to establish a defensive perimeter around three principal camps as well as around the Ler Per Her IDP site. These

¹⁴ A full transcript of this interview is included as Appendix 2.

mines were not removed when the group withdrew from the camps on June 13th. Since June, the KNLA has continued laying mines in an effort to kill or injure DKBA and SPDC troops, while SPDC and DKBA troops now in control of the area have extensively mined the area themselves. In August 2009, a KHRG researcher interviewed six deserters from DKBA Brigade #999, the unit now in control of the area of return, and they indicated that Brigade #999 had significantly expanded the area it was mining beginning in August 2009.

The SPDC and DKBA use landmines to protect their camps, but have also placed mines across a much wider swathe of territory. Areas mined include abandoned villages, paddy fields and grazing land, forest paths, roads and sections of the Moei River's western bank. The DKBA and KNLA also regularly use IEDs and traps such as sharpened bamboo 'punjisticks.' All three groups also regularly fire mortars and rocket propelled grenades; resulting UXOs contaminate the area of return, and continue to pose a risk to returnees and especially children.

Villagers are aware of this situation and have repeatedly expressed in interviews with KHRG and other groups that the threat of death or maiming from landmines, IEDs and other UXOs is a major reason that they do not wish to return to Burma. The risks posed by existing mines to returning civilians is illustrated by the fact that KHRG has confirmed nine incidents in which refugees making visits to their home villages have been killed or injured by landmines. Details on these nine incidents are included as Appendix 5. If one includes soldiers, moreover, it is likely that this number is just a fraction – perhaps one-tenth – of the actual number of deaths and injuries from landmines in the area of return. On February 9th 2010, for instance, a DKBA soldier was killed by a landmine a few hundred meters from a football field inside the Ler Per Her IDP site, an area that is within view for an observer standing on the Thai side of the Moei River. Because landmines do not distinguish between soldiers and civilians, this indicates that as the number of civilians returning to the area increases, so too does the risk of civilian injury. Eleven months after fighting subsided in the area adjacent to the Moei River, unexplained detonations have continued to be audible from the sites in Thailand on a daily basis.



This photo, taken on March 31st, shows Saw Pe--- after accidentally detonating a UXO he and his brother found outside Mae La Ah Kee village. According to one of Saw Pe---'s relatives, the boy's family returned to their village after RTA soldiers forced them to leave the Mae U Su camp.



This photo, also taken on April 1st 2010, shows one of Saw Pe---'s relatives Saw S--- and his older brother, who accompanied the boy when he came to Thailand for treatment. *"I was in my field, about a four or five minute walk from my village [when the accident happened],"* Saw S--- told KHRG. *"When I came back to the village, I heard someone crying. Then I saw people carrying [Saw Pe---]."*

In a potentially ominous omen for the future, on the same day that the last of the refugees departed from Nong Bua and Mae U Su, Saw Po---, 7, was killed and his brother Saw Saw Pe---, 10, was severely injured when an undetonated round from an M79 grenade launcher exploded as the boys played with it. According to one of the boys' relatives, Saw S---, 65, their father had found the UXO and hidden it because he worried it might injure someone. In spite of his

attempt at caution, the boys found the round and accidentally detonated it as they played with it: an M79 round looks vaguely like a small, heavy oblong children's toy. Another relative, Pah T---, 45, meanwhile, told KHRG that the father did not find or hide the round. Pah T--- said that the father was sick at home and the boys found it while looking for vegetables at a farm field near the village. He told KHRG that he went to the site of the accident afterwards, where he found the round's cartridge case and a small battery. Finding the cartridge case indicates that the round had not been fired when the boys found it, and Pah T--- surmised that a soldier moving through the area had dropped it. Pah T--- also said he thought the boys had used the battery to bang on the cartridge, potentially causing it to fire.

Ultimately, Pah T--- said that because he and Saw S--- were not with the boys during the time of the accident, they could not know exactly what happened. Saw Po--- was killed on the spot, while Saw Pe--- was seriously injured, with wounds to his head and the right side of his stomach and chest. After being carried to Thailand, he was initially taken to the hospital in Tha Song Yang before being transferred to Mae Sot General Hospital, where he underwent surgery in the evening and remains in serious condition. As of the evening of April 1st 2010, doctors were attempting to send him to the provincial hospital in Tak for a CT scan to determine the severity of his head injury.

The incident happened just outside Mae La Ah Kee village, where the family had returned after the 2009 rainy season in. According to Saw S--- the family had attempted to seek refuge in the Mae U Su camp but were forced to leave by the RTA. In an interview on April 1st, Saw S--- provided the following answer when asked why the family had returned to Mae La Ah Kee :

The Thai soldiers told [the family], "Your family picture didn't appear clearly when we developed it, so you will not get rations. That's why your family must go back." The Thais asked them to go back, so they went back.

Saw S--- was referring to the registration process used by the RTA to determine how many refugees were residing in the sites, a process that was also employed to prevent villagers without a legitimate claim to refuge from staying in the camps. Tragically, Saw S--- describes a simple technical error as the reason the family was ordered to leave the site and, ultimately, the reason the boy was killed and the other injured.



This photo, taken on December 3rd 2009, shows ammunition, a Claymore landmine and an IED belonging to a DKBA soldier that deserted in Bu Tho Township, Papun District. Two unfired M79 rounds can be seen on the left. These rounds are similar to the type that injured Saw Pe--- and killed his brother. All three the SPDC, DKBA and KNLA regularly use M79 grenade launchers.



This photo, taken in early 2010, shows mines planted defensively by DKBA Brigade # 555 in K--- village tract, Lu Pleh Township, Pa'an District. These mines were not marked, and villagers returning to K--- will have to worry about other similar ones buried in the area. If the villagers are lucky, water will destroy the homemade mines within six months to a year.

DKBA, SPDC and KNLA units responsible for laying mines in the area of return have not taken steps to comprehensively mark or remove mines to reduce the risk to civilians in the area, nor would it be reasonable to claim that they have the ability to safely de-mine such a large and heavily-mined area. The capacity and/or will of the parties that have laid mines is inadequate to infer that the area will be sufficiently clear of mines to allow for safe civilian return any time in the near future. When asked to comment on claims made by the RTA that the DKBA had committed to remove landmines, on February 16th 2010, Yeshua Moser-Puangsuwan, the International Campaign to Ban Landmines' (ICBL) research focal point for Burma and an appointed voluntary advisor to the Royal Thai Army's Mine Action Centre, told KHRG:

Even the Thai military has found it difficult to clear the minor amount of landmine pollution Thailand has near some of its border areas. Humanitarian mine clearance is a time-consuming and costly activity. Prior to any clearance, an assessment would have to be made of the location of dangerous or mined areas by a competent entity which can clear mines. There is no entity with this expertise in Burma/Myanmar. None of the armed groups known to have used mines someplace near the area under question keep or accurately track where they lay mines. Any statement that they can remove them, and do so quickly, is simply bravado.¹⁵

Returning villagers may be forced to work for the DKBA and SPDC. Refugees that fled in June 2009 and afterwards have repeatedly told KHRG that they fled not only because of fighting, but also because of heavy demands for forced labour imposed by the SPDC and DKBA to support their respective military operations. KHRG has extensively documented the broad use of forced labour by the DKBA and the SPDC for over 18 years, and has continued to receive reports of exploitative demands in the area of return as recently as January 2010. Every day since January 2010, for instance, DKBA soldiers based at the Wa Kaw Loo camp have forced seven villagers to come and work repairing, maintaining and building different parts of the camp. Villagers told KHRG that both men and women are required to perform forced labour, and that they have been required to do the following duties: clearing the camp compound; cutting down trees and bamboo; making barriers; building huts, food storage barns, a clinic and a mess hall; and making pieces for bamboo traps. Because most of the villagers from the area around the Wa Kaw Loo camp fled to Thailand, DKBA soldiers have forced people to come from as far away as Gklay Poe Glo and Gklay Moh Kee villages, which are a 2.5 hour walk away. The Wa Kaw Loo camp is located about a 45 minute walk from the Ler Per Her IDP site, between Meh Keh and Meh La Ah villages, and opposite Nong Bua village in Tha Song Yang District. Saw K---, age 38, a villager from Gklay Moh Kee, described the times he has been forced to do forced labour at the DKBA camp at Wa Kaw Loo to a KHRG researcher:

I've had to work at Wa Kaw Loo two times [since the start of 2010]. All I feel is fear. I don't dare to go and cut down trees and bamboo so far. Before, when I went the first time on January 2nd 2010, I had to cut down trees. I was too afraid. The next time on January 7th 2010, I had to [help] construct a food store and clinic. It was better because I didn't need to be afraid of landmines. We couldn't finish the construction in one day. There were about 20 people working; six people were from Gklay Poe Glo, four people were from Tee Htu Kaw, and four people were from Mae Hke Kee. We worked the whole day but we just finished one food store and two kitchen rooms. The clinic and huts aren't finish yet. We still have to go [back] for more days. People whose turn has arrived, they'll have to go and finish it. I will not go even if the village head asks me to go. I want to rest for a month, but I could never do that. There is still so much work, it depends on you whether you can do it. If we could get payment, maybe people could do that. How can you make such an effort if you don't get payment?

¹⁵ Moser-Puangsuwan's full statement is included as Appendix 6.

If refugees return, it is likely that they will be forced to work at this or other army camps. The immense strain that such forced labour puts on the livelihoods of villagers who primarily engage in subsistence farming will be particularly severe for returning refugees, given that most will not have adequate food supplies and have not been able to plant, tend, or harvest their fields in the past nine months.¹⁶ Still, returning refugees will find it difficult and dangerous to resist forced labour demands made by DKBA soldiers. Villagers from the Gklay Moh Kee area told a KHRG's researcher about an incident on January 7th 2010, in which Saw P---, the village head of Gklay Moh Kee, reported to battalion commander Major Hlaing Thay for regular forced labour duty. Saw P--- had only gathered six villagers instead of the seven ordered to work on camp maintenance. As soon as the group of villagers arrived at 10:30am, the commander confronted Saw P--- about not bringing enough workers, and ordered his soldiers to tie Saw P---'s hands behind his back and make him sit under a tree. The village head was left by the tree for one and a half hours in the hot midday sun. After releasing him, the soldiers warned the village head that the next time he failed to bring the right number of labourers, he'd be left bound in the heat for longer.



This photo, taken in early 2010, shows Naw M---, 45, and Pa K---, 51, who live in H--- village, Lu Pleh Township. They told KHRG they have had to work as forced labourers for the SPDC and DKBA twice a month since the two groups took control of the area from the KNLA in June 2009.



This photo, taken in early 2010, shows Saw K---, 37, as he carries paddy from a hiding place in Lu Pleh Township. Saw K--- fled his village after the SPDC and DKBA attacks in June 2009, but has remained in Lu Pleh Township, where he says he has been required to do forced labour by the SPDC and DKBA. *"I have gone [as a forced labourer] several times,"* he told KHRG. *"Sometimes it took two or three days."*

Some individuals may also be subjected to particularly violent abuse in the form of reprisals as alleged supporters of the KNLA. The DKBA has a history of violently punishing villagers suspected of supporting the KNLA, and has explicitly warned some refugees in Tha Song Yang that they will be treated as KNLA supporters if they return from Thailand. Since June, KHRG has documented the execution of one village head by the DKBA, which had accused him of cooperating with the KNLA. Given this history, assurances from DKBA officers that no reprisals will be carried out are not credible or sufficient. KHRG has also recently received information about an incident that occurred in August 2009, in which a villager returning from a new arrival site in Thailand was punished for his alleged connection with the KNLA. Saw Y---, 42, had fled from Mae La Ah Hta, Dta Greh Township, after the June 2009 attacks and had been living in Mae U Su camp. On August 12th 2009, he returned to check on his village. Around noon, five DKBA soldiers led by Thara Pa A'taw accused him of cooperating with the KNU and detained him. Saw Y--- protested, *"If I was KNU, I wouldn't dare to come back. I can't live [here] and don't dare to stay in my village, so I have to go and live in Thailand. I came back because I want*

¹⁶ For analysis of the cumulative effects exploitative abuses have on villagers ability to support themselves, see *Food crisis: The cumulative impact of abuse in rural Burma*, KHRG, April 2009.

to visit my village. I don't dare to come back so much." Despite arguing with the soldiers for half an hour, Saw Y--- was tied up and sent to the DKBA camp at Kyaw Gkate Hta, where he was interrogated repeatedly by commander Pu Bp'Neh Wah. The DKBA officers ordered his family to come and guarantee his identity but, although many people vouched for him, Saw Y--- had to stay in jail and perform hard labour for nearly one month. At this point he was allowed to stay outside the camp but still prevented from returning to Mae U Su. In the last week of December 2009, he was able to escape and return to Mae U Su. This example demonstrates that returning refugees accused of links to the KNLA can be arbitrarily deprived of their freedom for months at a time as well as subjected to forced labour. There is also a serious risk that some will face physical abuse and torture while in detention, and in such cases as that of the village head mentioned above, summarily executed.

Finally, the vast majority of **refugees departing from the Tha Song Yang temporary sites are likely to face a lack of adequate food resources** upon their return to Burma. Most refugees in Tha Song Yang are subsistence farmers who left their villages at the beginning of the 2009 rainy season; they were unable to maintain their paddy crops during the rainy season, and failed to complete the October 2009 harvest. They will therefore not be able to produce another large store of food until October 2010, and they lack the resources to procure food supplies that they have not grown for themselves. Most could not carry large amounts of food or other supplies when they fled the Ler Per Her area, and many have reported that their homes were looted or destroyed by soldiers after they left, so they will not have tools or shelters to return to. Even in cases where belongings were not deliberately destroyed, since it has now been well over nine months since most refugees arrived in Tha Song Yang, it is also unlikely that any food or other supplies left behind currently remain at their homes, or remain usable. The returnees' efforts to produce sufficient food for themselves is also likely to be severely hampered by heavy demands for forced labour and arbitrary taxation from the DKBA and SPDC soldiers that currently control the area of return, as well as the high concentrations of landmines that have been placed in the area, which restrict available land when farmers actually know their locations, and threaten their lives when they do not. While humanitarian aid groups have provided departing refugees with food supplies, the DKBA's history of arbitrary taxation and exploitative abuse of villagers should raise concerns that these supplies will be confiscated or heavily taxed.

It is also important to recognise that, while the fighting has decreased in the area of return since June 2009, there remains a significant chance that fighting could resume. The KNLA and DKBA remain at odds; when asked about the potential for peace in the area of return, on February 15th 2010, Naw Zipporah Sein, General Secretary of the KNU, responded: *"No, we dare not to say that [the areas of return will be peaceful]... There is no peace agreement [between the KNLA and the DKBA] and also there is no recognition of those areas as a peace zone. We cannot guarantee that those areas will be peaceful, because war is still going on."* According to KNLA records, 46 clashes occurred between the KNLA and the DKBA or SPDC Army in Pa'an District between October 2009 and January 2010. Some of these occurred inside the area of return. Full details of these clashes are included as Appendix 7.

It is even more important to recognise, however, that refugees that fled to Tha Song Yang were escaping not merely an upsurge in armed hostilities in June 2009, but the rise in abuses related to increased militarization in the area of their homes and villages over a much longer period. The apparent end or temporary pause in armed conflict in the area of return does not therefore signal that the area is safe or stable. The major livelihoods and security threats that Tha Song Yang refugees were attempting to flee, including forced labour, landmines, forced conscription into the military, and arbitrary taxation, persist to this day, and have in many ways been compounded by the additional threat of acute food insecurity. The following testimony from a villager who fled to Thailand several months after major hostilities in the Ler Per Her area had come to an end illustrates the numerous abuses that refugees returned to Burma may face:

My name is K---. I'm 37 years old. I have three children and a wife. My family and I decided that we wouldn't flee to a refugee camp when 7th Brigade [KNLA 7th Brigade Headquarters] fell. I thought I'd still live in my village. We sent all our things to a secret place. I lived there about 3 or 4 months. Unexpectedly, on October 7th 2009, at dawn time around 7:00 am, DKBA Company Commander Nel Nel came with 20 soldiers. They arrived and called us down to the ground and they said, "We're going to burn your huts". We said to them, "They are full of our things, don't burn our houses." They went berserk, they fired their guns: one mortar and other guns, too. [We were] nervous and afraid, my family and I went down to the ground. After that they went up to the house and threw down our things and poured our rice on the ground, but we didn't dare to tell them anything or stop them. Then they set our house on fire. They didn't let us live there anymore.

They ordered us to go and live at Wah Me Klar village. They gathered us and jostled our backs with their guns. They asked us to go in front of them. We couldn't see anything because it was so dark but we went because we were afraid of them. After we left our huts, they planted landmines behind us along the way we walked. They kept us at Wah Me Klar village and asked us to sleep there. In the morning, they told us to go back and look for our things. We told them, "We don't dare to go back, you planted landmines on the path that we have to use to go back." They said, "Don't go back the way that you have come. Go back to another way." They told us the way that we had to follow. We went back and saw our materials and things but they were all damaged. We couldn't do anything; we were so disappointed. I said to my wife, "We can't stay here anymore. If we stay here, DKBA soldiers will come and [abuse] us again. So we have to find a way to go to the refugee camp at Mae U Su. At the end of October, my family and I came and showed our family members to the village head [in Mae U Su] to get rations. Now we lived in a refugee site."

Saw K--- (male, 37), P'nwet Pu village, Dta Greh Township (Mae U Su new arrival site, December 20th, 2009)

Conclusion

It is now too late to prevent what has ultimately functioned to be refoulement of 2,409 refugees from Nong Bua and Mae U Su. The sites are empty; thousands of villagers that had legitimate claims to refuge in Thailand are now intensely vulnerable and at risk of human rights abuses and an unstable security situation. Research by KHRG and other organisations indicates that this is the direct result of the sustained harassment and pressure directed towards refugee families by the RTA. Refugees may have chosen to return over the last two months, but because they have done so in the context of pressure and harassment this return should not be understood as voluntary. Pressure on the refugees to return likely has not resolved the issue for Thailand: given the risks to the returned refugees outlined above, it is highly likely that these families will be displaced again; some may return to Thailand in the near future. While villagers in the area of return have shown remarkable resilience and ability to resist violations of their human rights, they are returning to areas where political and military situations that were once intelligible, and consequently manageable, are now as dangerous as they are in flux. It is crucial that the risks to these refugees are clearly understood, so appropriate methods can be developed for supporting whatever strategies they deem most appropriate for surviving in the face of abuse.

Eastern Burma, meanwhile, is home to tens of thousands of displaced people as well as non-state armed groups in states of open conflict, or uneasy peace, with one another as well as the SPDC Army. It is vital to learn from events surrounding the hosting and eventual return of the

refugees in Tha Song Yang, for they will not be the last group of villagers to use flight to Thailand as a method for resisting abuse in Burma. The fundamental lesson is that refugees should be included in any discussions or negotiations regarding repatriation or relocation. They are best placed to assess the safety of such changes, and ignoring their perspectives risks violations of human rights as well as future displacement. Refugees' security and human rights concerns, as well as their wishes regarding return, must be recognised as legitimate; the satisfactory resolution of refugees' concerns, and respect for their wishes, will be key elements of any safe, sustainable and truly voluntary repatriation. Refugees should not face pressure to ignore credible security and human rights concerns and return to areas that are not safe. Clearly-defined mechanisms for monitoring treatment of refugees are thus vital to ensure that harassment that undermines the voluntary nature of return does not go un-recognised. Any such monitoring mechanism, moreover, should be supported by equally well-defined mechanisms that enable harassment to be reported and officials held accountable if harassment occurs or if agreements with humanitarian aid agencies are not kept.

For more information on refugees in Tha Song Yang District as well as the impact of the SPDC and DKBA on villagers in Pa'an District, see the following previously published KHRG reports:

- *Refoulement Deferred: Still no durable solution for hosting refugees in Tha Song Yang District* (February 2010)
- *Threatening refoulement: harassment and pressure on refugees in Tha Song Yang District* (February 2010)
- *Unsafe return: Threats to human rights and security for refugees leaving Tha Song Yang District* (January 2010)
- *Security concerns for new refugees in Tha Song Yang: Update on increased landmine risks* (September 2009)
- *Abuse in Pa'an District, Insecurity in Thailand: The dilemma for new refugees in Tha Song Yang* (August 2009)
- *Exploitation and recruitment under the DKBA in Pa'an District* (June 2009)
- *Update on SPDC/DKBA attacks at Ler Per Her and new refugees in Thailand* (June 2009)
- *Joint SPDC/DKBA attacks, recruitment and the impact on villagers in Dooplaya and Pa'an districts* (May 2009)

Karen Districts

This map illustrates the Karen districts within Myanmar's administrative divisions. The districts shown include Toungoo, Papun, Nyaunglebin, Thaton, Pa'an, and Doolaya. Major towns like Rangoon, Bhamo, and Mawchi are marked. The map also shows the Gulf of Martaban, the Andaman Sea, and the borders with Thailand and India. A legend explains the symbols used for towns, boundaries, roads, and rivers.

Legend (Not all features marked)

- Small town / Village
- Major town
- ★ Federal capital
- - - District Boundary
- - - State Boundary
- - - Federal Boundary
- = Vehicular Road
- ~ River

Scale: 1 cm to 22 km
1 in. to 35 miles